



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OGC-2022-0200; FRL-9575-01-OGC]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with the Clean Air Act, as amended (CAA or the Act), notice is given of a proposed consent decree in *Growth Energy v. Regan* (D.D.C. No. 1:22-cv-00347). On February 8, 2022, Plaintiff Growth Energy filed a complaint in the United States District Court for the District of Columbia alleging that the Environmental Protection Agency (EPA or the Agency) failed to perform non-discretionary duties in accordance with the Act to establish renewable fuel standards for calendar years 2021 and 2022. The proposed consent decree would establish deadlines for EPA to establish the 2021 and 2022 renewable fuel standards by June 3, 2022.

DATES: Written comments on the proposed consent decree must be received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2022-0200, online at <https://www.regulations.gov> (EPA's preferred method). Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID number for this action.

Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Additional Information about Commenting on the Proposed Consent Decree" heading under the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited

exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via <https://www.regulations.gov>, as there may be a delay in processing mail and faxes. Hand-deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

EPA continues to carefully and continuously monitor information from the CDC, local area health departments, and our federal partners so that we can respond rapidly as conditions change regarding COVID-19.

FOR FURTHER INFORMATION CONTACT: Ryland Shengzhi Li, Air and Radiation Law Office (mail code), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone (202) 564-6787; email address li.ryland@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining a Copy of the Proposed Consent Decree

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2022-0200) contains a copy of the proposed consent decree.

The electronic version of the public docket for this action contains a copy of the proposed consent decree and is available through <https://www.regulations.gov>. You may use <https://www.regulations.gov> to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select “search.”

II. Additional Information about the Proposed Consent Decree

The proposed consent decree would establish a June 3, 2022, deadline for EPA to establish the 2021 and 2022 renewable fuel standards (also known as renewable fuel

obligations). EPA is obligated to establish the renewable fuel standards under 42 U.S.C. 7545(o)(3)(B)(i). The Agency was statutorily obligated to establish the 2021 renewable fuel standards by November 30, 2020, and to establish the 2022 renewable fuel standards by November 30, 2021. EPA proposed the renewable fuel standards for 2021 and 2022 on December 7, 2021. See 86 FR 72436 (published December 21, 2021). Under the proposed consent decree, EPA must sign the final rule establishing the 2021 and 2022 renewable fuel standards by June 3, 2022.

The same rule proposing the 2021 and 2022 renewable fuel standards also proposed to revise the 2020 renewable fuel standards, which EPA had previously finalized in a separate rulemaking. 85 FR 7016 (February 6, 2020) (“2020 Rule”). Growth Energy and other parties have challenged the 2020 Rule in the D.C. Circuit. *Growth Energy v. EPA*, No. 20-1113 (D.C. Cir.) (consolidated under lead case *RFS Power Coalition v. EPA*, No. 20-1046 (D.C. Cir.)).

In accordance with section 113(g) of the CAA, for a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to the proposed consent decree. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

III. Additional Information about Commenting on the Proposed Consent Decree

Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2022-0200, via <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from this docket. EPA may publish any comment received to its public docket. Do not submit to EPA’s docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish

to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Note that written comments containing CBI and submitted by mail may be delayed and deliveries or couriers will be received by scheduled appointment only.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the <https://www.regulations.gov> website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

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Associate General Counsel.

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